

LABOUR DEPARTMENT

The 11th November, 1986

No. 9/8/86-6Lab./7655.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of (i) State Transport Commissioner, Haryana, Chandigarh; (ii) General Manager, Haryana Roadways, Rewari.

IN THE COURT OF SHRI A.S. CHALIA, PRESIDING OFFICER, LABOUR COURT, FARIDABAD.

Reference No. 702 of 1985

between

SHRI BHUR DUTT, WORKMAN C/O SHRI P. R. YADAV, ADVOCATE, GURGAON AND
THE RESPONDENT-MANAGEMENT OF STATE TRANSPORT COMMISSIONER, HARYANA,
CHANDIGARH; (ii) GENERAL MANAGER, HARYANA ROADWAYS, REWARI.

Present :

Shri P. R. Yadav for the workman.

Shri R. S. Yadav for the respondent.

AWARD

This reference is under section 10 (i) (c) of the Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—*vide* its endorsement No. ID/GGN/51-85/42072—78, dated 11th October, 1985 to adjudicate upon the dispute of service matter covered by Second Schedule under Section 7 of the said Act, arisen between Shri Bhur Dutt, workman and the respondent-management of State Transport Controller, Haryana, Chandigarh; (ii) General Manager, Haryana Roadways, Rewari. Accordingly, it has been registered as reference No. 702 of 1985.

2. The claim of the petitioner is that on 18th September, 1979 he was appointed by the respondent as a helper at a monthly pay of Rs. 410 and he was working regularly but his services were terminated on 18th March, 1985 in an arbitrary and illegal manner. Accordingly, request has been made that he be reinstated into his job without any break and further with full back wages.

3. On notice respondent appeared and written statement has been filed. It has been admitted that petitioner was appointed on 18th September, 1979 as a helper on daily wages. It is being pointed out that he had worked up to 30th September, 1979 and was re-employed purely on temporary basis and he was dis-continued on 4th March, 1985. It has been denied that petitioner is entitled to be reinstated with full back wages without any break of wages.

4. On the basis of pleadings of the parties, my learned predecessor had framed the following issues on 7th March, 1986:—

1. As per Reference?

In support of the claim, the petitioner had appeared and deposed on oath. On the other hand clerk of respondent has also been examined, who has deposed from the record. I have heard the parties as represented above. The finding is as below:—

5. *Issue No. 1.*—The moot point to be determined is as to for how many days the petitioner had worked. It has been claimed by him that he was appointed on 18th September, 1969 as a helper and it has been admitted as correct by the respondent in his written statement. According to the statement of Clerk of the respondent petitioner was appointed on 27th September, 1979 and further,—*vide* Ex.M-2 he was dis-continued with effect from 1st August, 1984 and then,—*vide* Ex.M-3 he was appointed on 19th September, 1984 and further,—*vide* Ex.M-4 his services were dis-continued with effect from 4th March, 1985. During the course of arguments it has been conceded on behalf of the respondent that firstly he had worked from 27th September, 1979 to 1st August, 1984 and then from 18th September, 1984 to 4th March, 1985. On the other hand petitioner had stated on oath that he had joined on 18th September, 1979 and his services were terminated on 1st August, 1984 and he had rejoined on 18th August, 1984 and again were terminated on 4th March, 1985. On the basis of

data supplied by both the parties, it is quite clear that this petitioner had worked for more than 240 days and as such he was in continuous service as defined under Section 25-B of the said Act. It is not disputed that his services were dispensed with without any notice and payment of any compensation and if it is so, then Section 25-F of the said Act is attracted. The respondent had not complied with the same and it is he who was to be held responsible for the same. On the face of it the termination order was null and void *ab initio* and against the requirement of Section 25-F of the said Act and as such the same stands revoked. In consequence, the petitioner stands reinstated with full back wages and further with continuity of service.

The reference is accordingly answered in favour of the petitioner and against the respondent.

Dated the 1st August, 1986.

A. S. CHALIA,
Presiding Officer,
Labour Court,
Faridabad.

Endst. No. 2122, dated the 2nd September, 1986.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

A. S. CHALIA,
Presiding Officer,
Labour Court,
Faridabad.

No. 9/8/85-6Lab/9054. —In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of (1) State Transport Controller, Haryana, Chandigarh; (2) Haryana Roadways, Rewari.

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 68 of 1985

between

SHRI LAL CHAND, WORKMAN C/O SHRI NAND RAM, HELPER, MOTOR MECHANIC,
HARYANA ROADWAYS, REWARI AND THE RESPONDENT-MANAGEMENT OF STATE
TRANSPORT CONTROLLER, HARYANA, CHANDIGARH; (ii) HARYANA ROADWAYS,
REWARI

Present:

Shri P. R. Yadav for the workman.

Shri Randhir Singh Yadav, for the respondent.

AWARD

This reference under Section 10 (i)(c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—*vide* its endorsement No. ID/GGN/2243-49, dated 16th January, 1986 to adjudicate upon the dispute of service matter covered by Second Schedule under Section 7 of the said Act, arisen between Shri Lal Chand, workman and the respondent of Haryana Roadways, Rewari. Accordingly, it has been registered as reference No. 68 of 1986.

2. The claim of Shri Lal Chand is that he was appointed on 7th May, 1984 as a Helper (Motor Mechanic) by the respondent and his services were terminated on 10th July, 1985. The allegations are that the order of termination is wrong, illegal, malafide invalid and against the principles of natural

justice by adopting unfair labour practice. He has pointed out that he had not received any notice to terminate his services and in lieu thereof his pay for one month was not offered to him and further no compensation was also paid to him. Accordingly he has requested that he be reinstated with full back wages and further with continuity of service.

3. On notice, the respondent appeared and filed written statement, the contesting the said claim. It has been claimed that he was appointed on 7th May, 1984 to 31st May, 1984 as a helper on daily basis and after that there had been several breaks in his service and ultimately his services were dispensed with from 10th July, 1985. The allegations of malafide levelled against it have been emphatically denied. Further it is claimed that his services could be terminated at any time without notice since he was working purely on daily basis. By way of replication Shri Lal Chand reiterated his claim as well as allegations also.

4. On the pleadings of the parties my learned predecessor had framed the following issues on 6th June, 1986 :—

1. As per reference.

To prove the said claim there is statement of Shri Lal Chand, petitioner and then to rebut the same there is statement of Clerk of the respondent. I have heard both the parties as represented above and further I have gone through the case file. The finding is as below :—

5. *Issue No. 1.*—It has been claimed by Shri Lal Chand that he was appointed on 7th May, 1984 as a Motor Mechanic Helper and his services were terminated on 10th July, 1985. Further according to the statement of respondent's Clerk he was appointed on 7th May, 1984 up to 31st May, 1984,—*vide* Ex. M-1 and he had worked up to 31st January, 1985 and then he was re-employed on 7th February, 1985,—*vide* Ex. M-2. and his services were terminated on 9th July, 1985,—*vide* Ex. M-3. In cross examination it has been conceded by the said Clerk that he used to be appointed on monthly basis. It is quite clear from the statistical date supplied by the respondent that Shri Lal Chand had worked for more than 240 days and it is the situation then he is entitled to be in continuous service as denied in section 25-B of the said Act. This Clerk has conceded that no notice to terminate the services was issued to Shri Lal Chand and in lieu thereof one month pay was not paid to him and further no compensation was paid to him. Again it attracts Section 25-F of the said Act as services of Shri Lal Chand have been terminated in violation thereof. On the face of it, the impugned order is bad one and accordingly stands revoked. In consequence of it, Shri Lal Chand is reinstated into his job with continuity of service and further with full back wages.

The reference is accordingly answered in favour of Shri Lal Chand, workman.

Dated the 18th September, 1986.

A. S. CHALIA,

Presiding Officer,
Labour Court,
Faridabad.

Endst. No. 2336, dated the 23rd August, 1986.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under Section 15 of I.D. Act.

A. S. CHALIA,

Presiding Officer,
Labour Court,
Faridabad.